



# भारत का राजपत्र The Gazette of India

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No. 51] NEW DELHI, DECEMBER 17—DECEMBER 23, 2023, SATURDAY/AGRAHAYANA 26—PAUSHA 2, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

विदेश मन्त्रालय  
(सी.पी.वी. प्रभाग)

नई दिल्ली, 13 दिसम्बर, 2023

का.आ. 1876.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारतीय उच्चायोग, लंदन में आशुतोष कुमार श्रीवास्तव, वरिष्ठ सचिवालय सहायक, को दिसंबर 13, 2023 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी.4330/1/2023(40)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

**MINISTRY OF EXTERNAL AFFAIRS****(CPV Division)**

New Delhi, the 13th December, 2023

**S.O. 1876.**—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Ashutosh Kumar Srivastava, Senior Secretariat Assistant in the High Commission of India, London as Assistant Consular Officer to perform Consular services with effect from December 13, 2023.

[F. No. T.4330/01/2023(40)]

S.R.H FAHMI, Director (CPV-I)

नई दिल्ली, 13 दिसम्बर, 2023

**का.आ. 1877.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारतीय उच्चायोग वेलिंगटन में सुरभि, सहायक अनुभाग अधिकारी को दिनांक 13 दिसंबर, 2023 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी.4330/1/2023(39)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

New Delhi, the 13th December, 2023

**S.O. 1877.**—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Ms. Surbhi, Assistant Section Officer in the High Commission of India, Wellington, as Assistant Consular Officer to perform Consular services with effect from December 13, 2023.

[F. No. T.4330/01/2023(39)]

S.R.H FAHMI, Director (CPV-I)

**वाणिज्य एवं उद्योग मंत्रालय****(वाणिज्य विभाग)**

नई दिल्ली, 14 दिसम्बर, 2023

**का.आ. 1878.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस. के. प्राइवेट लिमिटेड, मोटर हाउस बंगलो, स्कूल रोड, ओखा, गुजरात-361350, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की सं० का.आ. 3975 और दिनांक 20 दिसम्बर, 1965 की अधिसूचना की सं० का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क तथा बॉक्साइट सहित कैल्साइन्ड बॉक्साइट, और समूह-II, अर्थात् जिंक कंसन्ट्रेट सहित जिंक अयस्क के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन ओखा पत्तन, पोरबंदर पत्तन, कांडला पत्तन तथा मुंद्रा पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/12/2023 - निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

## MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 14th December, 2023

**S.O. 1878.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognises M/s Mitra S. K. Private Limited, Motor House Bungalows, School Road, Okha, Gujarat- 361350 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group-I, namely – Iron Ore and Bauxite including Calcined Bauxite, and Group -II, namely- Zinc ores including Zinc concentrates, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20<sup>th</sup> December, 1965 and S.O.3978 dated 20<sup>th</sup> December, 1965 respectively, before export of the said Minerals and Ores at Okha port, Porbandar port, Kandla port and Mundra port, subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965 and Export of Minerals and Ores – Group II (Inspection) Rules, 1965; and

(ii) the said agency, in performance of their function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/12/2023-Export Inspection]

VIPUL BANSAL, Jt. Secy.

नई दिल्ली, 14 दिसम्बर, 2023

**का.आ. 1879.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इन्सपेक्टोरेट ग्रिफ़िथ इंडिया प्राइवेट लिमिटेड, एचआईजी-34, गौरव बिहार, मधुवन, पारादीप, ओडिशा-754142, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975, तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना संका.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क, और समूह-II, अर्थात् क्रोम अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन पारादीप पत्तन, गोपालपुर पत्तन तथा धामरा पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी;

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/13/2023 - निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

New Delhi, the 14th December, 2023

**S.O. 1879.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s. Inspectorate Griffith India Pvt. Ltd., HIG-34, Gourav Bihar, Madhuban, Paradip, Odisha - 754142 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group-I, namely, Iron Ore and Group-II, namely Chrome Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20<sup>th</sup> December, 1965, and S.O. 3978 dated 20<sup>th</sup> December, 1965 respectively, before export of the said Minerals and Ores at Paradip Port, Gopalpur Port and Dhamra Port, subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965 and Export of Minerals and Ores – Group II (Inspection) Rules, 1965;

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/13/2023 - Export Inspection]

VIPUL BANSAL, Jt. Secy.

नई दिल्ली, 14 दिसम्बर, 2023

**का.आ. 1880.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इन्स्पेक्टोरेट ग्रीफ़िथ इंडिया प्राइवेट लिमिटेड, द्वार संख्या 23-13-28, प्रथम एवं द्वितीय तल, फातिमा बिल्डिंग, थॉम्पसन स्ट्रीट, विशाखापत्तनम-530001, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975, तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना संका.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क, मैंगनीज अयस्क, फ़ैरोमैंगनीज तथा बाक्साइट और समूह-II, अर्थात् क्रोम अयस्क तथा बैरसाइट, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन विशाखापत्तनम पत्तन, गंगावरम पत्तन, काकीनाडा पत्तन, और कृष्णपट्टनम पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी;

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/14/2023-निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

New Delhi, the 14th December, 2023

**S.O. 1880.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s Inspectorate Griffith India Pvt. Ltd., Door No. 23-13-28, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Fatima Building, Thompson Street, Visakhapatnam - 530 001 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely Iron Ore, Manganese Ore, Ferromanganese and Bauxite, and Group - II, namely, Chrome ore and Barytes, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated

20<sup>th</sup> December, 1965, and S.O. 3978 dated 20<sup>th</sup> December, 1965 respectively, before export of the said Minerals and Ores at Visakhapatnam Port, Gangavaram Port, Kakinada Port and Krishnapatnam Port, subject to the following conditions, namely: -

- (i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965 and Export of Minerals and Ores – Group II (Inspection) Rules, 1965;
- (ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/14/2023-Export Inspection]

VIPUL BANSAL, Jt. Secy.

नई दिल्ली, 14 दिसम्बर, 2023

**का.आ. 1881.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मिनरलस लैब सर्विसेस प्राइवेट लिमिटेड, हाऊस नं. 2/28, कोलंचेरी हाऊस, कुलुर पोस्ट, रायाकाट्टे, मंगलुरु- 575013, कर्नाटक (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975, के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन मंगलोर पत्तन और कारवार पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी;
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/15/2023 - निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

New Delhi, the 14th December, 2023

**S.O. 1881.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s. Minerals Lab Services Private Limited, House No. 2/28, Kolenchery House, Kulur Post, Raikatte, Mangaluru- 575013, Karnataka (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely Iron Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20<sup>th</sup> December, 1965, respectively, before export of the said Minerals and Ores at Mangalore Port and Karwar Port, subject to the following conditions, namely: -

- (i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965;

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/15/2023 - Export Inspection]

VIPUL BANSAL, Jt. Secy.

नई दिल्ली, 14 दिसम्बर, 2023

**का.आ. 1882.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एसजीएस इंडिया प्राइवेट लिमिटेड, सी/ओ-पारादीप पोर्ट ट्रस्ट कर्मचारी क्रेडिट सहकारी समिति, दूसरी मंजिल सहयोग बिल्डिंग, प्लॉट नं. 474, जयदेव मार्ग, पारादीप -754142, ओडिशा (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975, के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन पारादीप पत्तन, धामरा पत्तन और गोपालपुर पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी;

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/16/2023 - निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

New Delhi, the 14th December, 2023

**S.O. 1882.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s SGS India Private Limited, C/O- Paradip port trust employee credit cooperative society, 2<sup>nd</sup> floor Sahayog Building, Plot no. 474, Jaydev Marg, Paradip -754142, Odisha (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely Iron Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20<sup>th</sup> December, 1965, respectively, before export of the said Minerals and Ores at Paradip Port, Dhamra Port and Gopalpur Port, subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965;

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/16/2023-Export Inspection]

VIPUL BANSAL, Jt. Secy.

### श्रम और रोजगार मंत्रालय

नई दिल्ली, 22 नवम्बर, 2023

**का.आ. 1883.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 82/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/11/2023 को प्राप्त हुआ था।

[सं. एल-20012/48/2005-आईआर(सी-1)]

मणिकंदन.एन, उप निदेशक

### MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 22nd November, 2023

**S.O. 1883.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.82/2005) of the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 19/11/2023

[No. L-20012/48/2005-IR(CM-I)]

MANIKANDAN. N, Dy. Director

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

### PRESENT

Dr.S.K.Thakur,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

### REFERENCE NO 82 OF 2005.

**PARTIES :** : The Secretary,  
Bihar Colliery Kamgar Union,  
Jharnapara, Hirapur,,  
Dhanbad -826001.  
**Vs.**

The Chief General Manager,  
ZTW, Kustore Area of M/s BCCL  
PO: Jharia, Dhanbad 826001.

Order No.L-20012/48/2005-IR(C-I) dt. 26.07.2005 & 28.07.2006

### **APPEARANCES :**

On behalf of the workman/Union : Mr.D.Mukherjee Ld.Advocate  
On behalf of the Management : Mr.D.K.Verma, Ld.Advocate

State : Jharkhand Industry : Coal  
Dated, Dhanbad, the 28<sup>th</sup> August, 2023

### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/48/2005-IR(C-I) dt. 26.07.2005 & 28.07.2006 .

### SCHEDULE

**Whether the demand of the Bihar Colliery Kamgar Union from the Management of ZTW ,Kustore Area of M/s BCCL for promoting Sri Ram Kewal Tiwary as Excavation Fitter in Excavation Cadre is justified? If so, to what relief is the concerned workman entitled and from what date”?**

2) The Government of India in Ministry of Labour & employment has referred the present dispute existing between Employer i.e. BCCL Management of Kustore Area of M/s BCCL,Dhanbad and its workman /claimant under clause (d) of the Sub Sec. (1) and Sub –Section (2A) of the Sec. 10 of the Industrial Dispute Act 1947 vide order No. dated referred hereinabove to this Tribunal for adjudication.

3) The facts of the case, are that the Sponsoring Union in the Written Statement of Claim stated that workman namely Sri Ram Kewal Tiwary was initially appointed as Excavation Mazdoor on 1.6.1987 with his initial posting at Godhar Washery. After appointment the workman was directed to work as Excavation Helper and the workman concerned started working as Excavation Helper. Thereafter, completing one year or so he made a representation to the Management for regularization as Excavation Helper but Management did not pay heed to his representation. Though the workman has been working as Excavation Helper till the Management illegally and arbitrarily regularized him as Auto Fitter Helper in Cat.-II w.e.f. 1.1.1994.The workman protested against illegal and arbitrarily regularization as Auto Fitter Helper instead of regularizing him as Excavation Fitter but the Management did not take note of it .Further stated by the Representative that as per Cadre Scheme of promotion of Excavation Cadre as laid down specifically that there is no scope to promote the Excavation workman to other discipline. But Management neither regularized him as Excavation Fitter nor disposed of his representation by passing any speaking order. The Workman’s demand that he should have been regularized as Excavation Grade at a least w.e.f. 1.1.1988 as he is entitled for regularization as Excavation Fitter at least w.e.f. 1.1.1994.In view of the position the Sponsoring Union took up the matter with Conciliation Officer .Upon being exhausted all avenues for amicable settlement and negotiation which fell through finally resulted in birth of a reference. So the Union seek to answer to the Reference with direction to Management to promote the workman concerned to the post of Excavation Fitter with all arrears of wages and other consequential benefits thereof .

4) Contrary to it ,expressing non-maintainability of the issue either in law or in facts OP/Management defended that the demand of the Union has no locus standi raising the dispute and demanding promotion of a individual workman as the promotion of a workman relates to managerial function and comes under the prerogative of the Management. The workman concerned was appointed as Cat.I Mazdoor on compassionate ground asked to report for duty to G.M.(Transportation) Department, Ekra .In pursuant to offer of appointment the workman concerned has reported at Transportation Deptt,Ekra on 30.05.1987 and was posted at Central Automobile .Considering his engagement background in Auto Section his candidature was considered in the same field by the Department Promotion Committee(DPC) and was promoted as Auto Fitter Helper in Cat. II .That at the time of appointment the workman was unskilled and so was engaged to Auto Section as a Mazdoor purely unskilled nature of job .The next promotion depends upon the nature of job being undertaken by the workman since the workman was having post experience in Auto Section and gained knowledge in that discipline his candidature was usually considered and promoted as Auto Fitter Helper Cat.II. There are certain factors to be taken into account such as requisite experience and exigency of the work and availability of sanctioned strength and vacancy at the place of point etc are kept in mind before ordering for promotion in higher category/grade..If go by the NCWA-IV introduction for upgration under S.L.U there is a provision to extend the benefits of the same who are deprived of it due to non-availability of vacancy in higher category/grade. So the demand of the Union for regularization for Excavation Cadre and promotion in the same cadres is neither legal nor justified.

5) The workman/claimant and the OP/management filed their pleadings re butting each other stand.



6) On behalf of the claimant workman Shri Ram Kewal Tiwary affidavited as WWI and was crossed by the OP/Management and exhibited documents related to the case matter as W.1 and W.2 and W-3. in support of their respective submissions In his oral testimony the claimant also supported the stand taken in the claim petition and filed Xerox copies of some papers marked as W-I,W-2,W-2/1,W2/2 respectively

7) On behalf of the Management testified M-1,M-2,marked in a series of M-3 and M3/1 . The real fact is that pursuant to the offer of appointment the workman reported duty at Centre Automobile Workshop ,Godhur as Excavation Mazdoor Cat.I as evidence adduced in Ext.W.2 .Subsequently closure of that Establishment his service was transferred to Zonal Transportation Workshop ,Kustore assigning the job of Mazdoor as evidence adduced in Ext.W.2 .In course of service taking into account of his auto Section back ground he along with his coworkers was considered for promotion as Auto Fitter Helper in Cat.II by the Deptt. Promotion Committee (DPC). The workman accepted the Terms & Conditions of the Management before being promoted and he did not protest at the relevant point of time.

8) Making submission by the O.P./Management that no appointment letter was ever issued by the Management to the claimant for placement in Excavation Department. Though being originally posted since his joining at Transportation Department ,Ekra he was assigned to work as Excavation Mazdoor Cat.I .Thereafter closure of that Establishment and subsequently shifting his service to Zonal Transportation Workshop ,Kustore he was also assigned the work of the Mazdoor .Considering his past experience specially in Auto Section being undertaken by him an unskilled nature of work for which he need not have specialization skill, he was promoted as Auto Fitter Helper in Cat.II .Promotion in next hierarchy largely depends upon certain factors subject to availability of sanctioned post and vacancy at the place of posting and criteria for meeting the eligibility etc. .

9) During the course of pendency of the present reference workman along with other coworkers has been promoted to the post of Auto Fitter in Cat.II by the OP/Management and subsequently he joined the post .There is no scope for Excavation Fitter in the said Workshop, i.e.,(TW, Kustore (Zonal Transportation Workshop).There is no need of any specialization so long as in E & M or in Excavation workshop as the nature of job resembles purely unskilled particularly in Mazdoor Category in Cat.I .

10) Considering his past engagement and the experience gained over his the engagement in Auto Section he was promoted as Auto Fitter Helper in Cat.II by the Departmental Promotion Committee. (DPC) .and in accordance with the guidelines of National Coal Wages Act as well as National Coal Wages Act (NCWA) NCWA Guidelines The claimant also availed all the due opportunities with regard to financial benefits offered by the OP/Management and he did not protest at the relevant period so there is no question of foul play. It is sole prerogative of the Management (Employer) to whom and where placement should be exercised taking into aspect all the guidelines and merits of the individual and subject to availability of sanctioned post and vacancy at the relevant period in respective higher Category/Grade.

11) Advancing argument OP/ Management stated that it need not necessary to move up next step in Excavation stream alone. The job being under by the workman either in E&M or in Excavation Workshop are purely unskilled nature and it need not attract any specialization while the working as Mazdoor in Cat.I. He was originally joined in Central Automobile workshop but eventually due to closure of this Establishment he was subsequently transferred to Zonal Transportation Workshop (ZTW) in the capacity of Mazdoor only.His all future prospect was determined and recommended based on his past experience in Auto Section. It is not out of contest to mention here that the workman did not possess experience and qualification to work as Excavation Fitter before joining to M/s BCCL, Dhanbad.So the claim of the workman does not stand justified and being devoid of any substance and merit.

12- The claimant workman could not produce any document/evidence for specific rule/ guidelines based on which he has claimed to be promoted in Excavation Cadre only. He has already accepted promotion to the post of Auto Fitter Helper Cat.II. from Cat.I Mazdoor. As such his claim of promotion within Excavation Cadre is not substantiated.

13) Thus, from the totality of the evidence and materials available on record it is held that the refusal by the Management in not promoting as Excavation Fitter in Excavation Cadre is fair and justified being devoid of any substance Thus the workman concerned is not entitled to any relief.Thus all the issues framed under Reference are answered against the claimant.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 12 दिसम्बर, 2023

**का.आ. 1884.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (183/2003) प्रकाशित करती है।

[सं. एल-12025/01/2023-आई आर (बी-1)-95]

सलोनी, उप निदेशक

New Delhi, the 12th December, 2023

**S.O. 1884.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.183/2003) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2023- IR(B-I)-95]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 17<sup>th</sup> day of November, 2023

#### INDUSTRIAL DISPUTE L.C.No. 183/2003

Between:

Sri Alluru Balaraju,

S/o A. Naguraiah,

R/o 18-1-429, Bhavani Nagar,

Tirupathi..

... Petitioner

And

The Chief General Manager,

(Personnel)

State Bank of India,

Local Head Office, Bank Street,

Hyderabad.

.....Respondent

#### Appearances:

For the Petitioner : Sri B. Suman Kumar, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

#### AWARD

Sri Alluru Balaraju who worked as Messenger (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India seeking for reinstatement into service as Messenger/Sweeper duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

2. Earlier this industrial dispute was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon'ble High Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated

23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR, J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:**

**3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri Alluru Balaraju, a worker of scheduled caste, was appointed as a Messenger in the State Bank of India in the year 1989, at Bhavani Nagar Branch, Tirupathi. He worked until March 1997 when he was stopped from working based on the orders of the respondent panels. The petitioner was called for an interview in 1992 and included in the panel in 1994. Totally he worked for 191 days. Petitioner approached Hon'ble High Court of A.P. where he was asked to approach the authority under ID Act, 1947. He approached the Office of the ALC(C), Vijayawada, who conducted conciliation proceedings, which ended in failure and failure report was forward to the Ministry of Labour and Employment, New Delhi, which was referred to this tribunal, hence this ID. Meanwhile Petitioner was called for an interview for absorption and he was selected and his name was included in the panel. There were no complaints against the Petitioner. The work performed by the Petitioner is of a permanent and continuous in nature. Though sufficient and plenty of work was available in the Respondent bank the officers have created artificial breaks in the services of the Petitioner. The Respondent has not published seniority list of the category of the Petitioner and retained juniors to the Petitioner without giving priority to the Petitioner. There are no valid reasons for terminating the services of the Petitioner. The workman submitted that ever since the date of his removal from service, he remained un-employee, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered

for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

*i) Category 'A' :*

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

*ii) Category 'B':*

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

*iii) Category 'c':*

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers

for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant,

if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 5 documents which were marked as Ex.W1 to W5. Ex.W1 is the call letter dated 21.7.92. Ex.W2 is the service certificate, Ex.W3 is the service certificate, W4 is the panel list and Ex.W5 is another service certificate. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

**16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-**

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri Alluru Balaraju, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization/absorption in the service of Bank?
- III. To what relief, the workman is entitled for?

**Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank on 6.11.1989 as Messenger. In the year 1992, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates in the year 1992 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.



18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arise. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. Further he stated Ex. W2, W3 and W5 are the service certificates. In cross examination, WW1 states that, on the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination, "During the period from 6.11.89 to 31.3.1997, I worked for 91 days before the interview." Further he states, "I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary messenger in the branch. I never worked continuously for 200 days in any year and I have worked continuously in three consecutive years. I used to work depending upon availability of work in the branch." The witness adds that he is not aware of the settlements. Further, the Petitioner states that, "It is true that I did not work for 240 days in any year in my entire service in any branch." On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act, he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine*

*first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be

granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

**In the case of National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999, three judges bench of Hon'ble Apex Court have held:-**

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Qrs. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994, the Hon'ble High Court observed:-**

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

**Further, in the case of State of U.P. v. Harish Chandra AIR 1996 SC 2173, the Hon'ble Apex Court have held:-**

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

**Similarly in the case of Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091, it was held :**

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri Alluru Balaraju, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.



**22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

**ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri Alluru Balaraju, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the  
Petitioner

Witnesses examined for the  
Respondent

WW1: Sri Alluru Balaraju

MW1: Sri I.S. Appa Rao

**Documents marked for the Petitioner**

Ex.W1: Photocopy of interview call letter  
Ex.W2: Photocopy of service certificate  
Ex.W3: Photocopy of service certificate  
Ex.W4: Photocopy of panel list  
Ex.W5: Photocopy of service certificate

**Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87  
Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88  
Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988  
Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991  
Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995  
Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996  
Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997  
Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.  
Ex.M9: Photocopy of statement of 1989 Non messenger panel  
Ex.M10: Photocopy of statement of 1992 panel  
Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98  
Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 12 दिसम्बर, 2023

**का.आ. 1885.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (209/2002) प्रकाशित करती है।

[सं. एल-12012/378/2001-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 12th December, 2023

**S.O. 1885.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.209/2002) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/378/2001- IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

#### In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 17<sup>th</sup> day of November, 2023

**INDUSTRIAL DISPUTE No. 209/2002**

Between:

Sri Bethala Prasad,

S/o Sundara Rao,

Jagarlamudi, Yeedanapudi(M),

Prakasam Distt.

... Petitioner

And

The Assistant General Manager,

State Bank of India,

Zonal Office, Region-III,

Tirupathi-517501.

.....Respondent

#### Appearances:

For the Petitioner : Sri B. Suman Kumar, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

### AWARD

The Government of India, Ministry of Labour by its order No. L-12012/378/2001-IR(B.I) dated 25.1.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

### THE SCHEDULE

“Whether the action of the management of State Bank of India, Tirupathi Zone in dismissing services of Shri B. Prasad, Ex.Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No.209/2002 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon’ble High

Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR, J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:**

**3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri B. Prasad was working as a Messenger in the State Bank of India from 1986 to 1997. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels. The Petitioner belongs to SC community. It is submitted that the workman joined in the services of the Management Institution as Messenger and rendered unblemished service, and by dint of hard work till his services were terminated by oral orders w.e.f. 1.4.1997. Petitioner is a married person having wife, one son and old aged parents as his dependents. Petitioner approached Hon'ble High Court of A.P. where he was asked to approach the authority under ID Act, 1947. He approached the Office of the ALC(C), Vijayawada, who conducted conciliation proceedings, which ended in failure and failure report was forward to the Ministry of Labour and Employment, New Delhi, which was referred to this tribunal, hence this ID. Meanwhile Petitioner was called for an interview for absorption and he was selected and his name was included in the panel. There were no complaints against the Petitioner. The work performed by the Petitioner is of a permanent and continuous in nature. Though sufficient and plenty of work was available in the Respondent bank the officers have created artificial breaks in the services of the Petitioner. The Respondent has not published seniority list of the category of the Petitioner and retained juniors to the Petitioner without giving priority to the Petitioner. There are no valid reasons for terminating the services of the Petitioner. The workman submitted that ever since the date of his removal from service, he remained un-employee, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

*i) Category 'A' :*

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

*ii) Category 'B':*

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

*iii) Category 'c':*

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the

number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the*

*Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 10 documents which were marked as Ex.W1 to W10. Ex.W1 is the Memo of marks. Ex.W2 is the transfer certificate, Ex.W3 is the caste certificate, W4 is the service certificate, Ex.W5 is another service certificate, Ex.W6 is the call letter for interview, Ex.W7 is the service certificate, Ex.W8 is notice for conciliation proceedings, Ex.W9 is minutes of that proceedings, and Ex.W10 is the failure report. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

**16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-**

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri B. Prasad, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization absorption in the service of Bank?
- III. To what relief, the workman is entitled for?

**Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank on 16.5.1986 for 88 days on temporary basis. In the year 1989, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates in the year 1989 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1999, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said



panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arise. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. Further he stated Ex. W4, W5 and W7 are the service certificates. In cross examination, WW1 states that, "On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination, "Accordingly, I was given appointment as Non-Messenger on temporary basis on 16.5.1986 for 88 days only, before the interview. I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary messenger and non-messenger in the branch. I did not work continuously. I used to work depending upon availability of work in the branch. I applied in response to an advertisement issued by the bank in the year 1989, I was called for interview and my name was included in the panel of temporary messengers in the year 1989. The panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the employees whose names were included in the panel were given regular employment in the bank in order of their seniority in the panel. The witness adds that he is not aware of the settlements. I am not having any document to show that any person who had worked for less no. of days than me was given regular appointment in the bank. It is true that I am not having any document to show that any of my juniors are continuing in service." Further, the Petitioner states that, "I did not work for 240 days in any year in my entire service in any branch." On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine*

*first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of **National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999, three judges bench of Hon'ble Apex Court have held:-**

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Qrs. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994, the Hon'ble High Court observed:-**

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of **State of U.P. v. Harish Chandra AIR 1996 SC 2173, the Hon'ble Apex Court have held:-**

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

Similarly in the case of **Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091, it was held :**

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*



In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri B. Prasad, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

## **22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri B. Prasad, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

#### **Appendix of evidence**

Witnesses examined for the

Petitioner

WW1: Sri B. Prasad

Witnesses examined for the

Respondent

MW1: Sri Aluru Rama Rao

#### **Documents marked for the Petitioner**

Ex.W1: Photocopy of memo of marks  
Ex.W2: Photocopy of Transfer certificate  
Ex.W3: Photocopy of caste certificate  
Ex.W4: Photocopy of service certificate  
Ex.W5: Photocopy of service certificate  
Ex.W6: Photocopy of interview call letter  
Ex.W7: Photocopy of service certificate  
Ex.W8: Photocopy of conciliation notice  
Ex.W9: Photocopy of Minutes  
Ex.W10: Photocopy of failure report

#### **Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87  
Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88  
Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non0messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 12 दिसम्बर, 2023

**का.आ. 1886.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (248/2001) प्रकाशित करती है।

[सं. एल-12012/171/2001- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 12th December, 2023

**S.O. 1886.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.248/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/171/2001- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 17<sup>th</sup> day of November, 2023

**INDUSTRIAL DISPUTE No. 248/2001**

Between:

Sri B. Gnananandam,

S/o Nagabhushanam,

Devarapalli(P.O.), Paruchuru(M),

Prakasham Distt.

... Petitioner

And

The Assistant General Manager,

State Bank of India,

Zonal Office, RG-II,

Tirupathi- 517501.

.....Respondent

**Appearances:**

For the Petitioner : Sri B. Suman Kumar, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/171/2001-IR(B.I) dated 16.10.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Tirupathi Zone in dismissing services of Shri B. Gnananandam, Ex.Messenger, by way of oral orders w.e.f. 31.3.1997 is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No. 248/2001 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon’ble High Court vide WP No. 6470/2006 & batch wherein Hon’ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon’ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon’ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR,J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon’ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:****3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri B. Gnananandam, was working as a Messenger in the State Bank of India since 1987. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels the Petitioner

belongs to Scheduled Caste. It is submitted that the petitioner is hailing from a very poor Indian Christian Mala caste of BC(C) group of the notified backward classes. He studied upto 10<sup>th</sup> class and discontinued the further education because of financial problems. It is submitted that the petitioner has joined the service of the respondent bank at Parchur branch, Prakasham district on 4.3.1987 as a Messenger and worked for 178 days officers were allocating work to him intermittently by creating artificial breaks in his employment with a malafide intention to deprive the protection to him under the Labour Laws and they were providing work to others instead of him. Petitioner is a married person having wife, and two daughters as his dependents. Petitioner approached Hon'ble High Court of A.P. where he was asked to approach the authority under ID Act, 1947. He approached the Office of the ALC(C), Vijayawada, who conducted conciliation proceedings, which ended in failure and failure report was forwarded to the Ministry of Labour and Employment, New Delhi, which was referred to this tribunal, hence this ID. Meanwhile Petitioner was called for an interview for absorption and he was selected and his name was included in the panel. There were no complaints against the Petitioner. The work performed by the Petitioner is of a permanent and continuous in nature. Though sufficient and plenty of work was available in the Respondent bank the officers have created artificial breaks in the services of the Petitioner. The Respondent has not published seniority list of the category of the Petitioner and retained juniors to the Petitioner without giving priority to the Petitioner. There are no valid reasons for terminating the services of the Petitioner. The workman submitted that ever since the date of his removal from service, he remained un-employee, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

i) Category 'A' :

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

ii) Category 'B':

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

iii) Category 'c':

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The

Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by

being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 5 documents which were marked as Ex.W1 to W5. Ex.W1 is the marks memo, Ex.W2 is interview call letter, Ex.W3 is the service certificate, Ex.W4 is the panel list and Ex.W5 is the minutes of conciliation. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.



**16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-**

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri B. Gnananandam, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization absorption in the service of Bank?
- III. To what relief, the workman is entitled for?

**Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank since 1987 on temporary basis. In the year 1989, Respondent No. 2 issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel List of all the successful candidates in the year 1989 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wages/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arisen. Therefore, panel list of daily wages prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. Further he stated that Ex. W3 is the service certificate according to which the workman has worked for total number of 178 days. In cross examination, WW1 states that he was not given any posting order at the time of joining the service nor at any other time. On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination, "Accordingly, I was given appointment as messenger on temporary basis in the year 1987 for 141 days. I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary attendant. I did not work for 240 days in any year in my entire service in the bank. I applied for appointment as Messenger, in response to an advertisement issued by the bank as per the settlement entered between the bank and the union. I was called for interview and my name was included in the panel of temporary messengers in the year 1989. The panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the employees whose names were included in the panel were given regular employment in the bank in order of their seniority in the panel. He further adds that, he is not aware of any settlements between the Management and the Union. I am not having any document to show that any person who had worked for less no. of days than me was given regular appointment in the bank. I am not having any document to show that any of my juniors are continuing in service. I was not given any letter stating that I was terminated from service." He further states that, "It is true that I did not work for 240 days in any year, in my entire service in the bank in any branch." On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list 1991 however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments

were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine*

*first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment of 1991 for regularization on temporary posts, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment of 1993. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him, from the panel list of 1991. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1991 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of **National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999**, three judges bench of Hon'ble Apex Court have held:-

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Qrs. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the Writ Petition No. 12964/1994, the Hon'ble High Court observed:-

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been*



*denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of **State of U.P. v. Harish Chandra AIR 1996 SC 2173**, the Hon'ble Apex Court have held:-

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

Similarly in the case of **Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091**, it was held :

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

In the present matter also, since the panel list 1991, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri B. Gnananandam, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

## **22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

## **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri B. Gnananandam, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

## **Appendix of evidence**

Witnesses examined for the

Petitioner

WW1: Sri B. Gnananandam

Witnesses examined for the

Respondent

MW1: Sri K. Bala Kotaiah

**Documents marked for the Petitioner**

- Ex.W1: Photocopy of Marks memo of X class  
 Ex.W2: Photocopy of interview call letter  
 Ex.W3: Photocopy of service certificate  
 Ex.W4: Photocopy of panel list  
 Ex.W5: Photocopy of minutes of conciliation meeting

**Documents marked for the Respondent**

- Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87  
 Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88  
 Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988  
 Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991  
 Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995  
 Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996  
 Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997  
 Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.  
 Ex.M9: Photocopy of statement of 1989 Non0messenger panel  
 Ex.M10: Photocopy of statement of 1992 panel  
 Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98  
 Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 12 दिसम्बर, 2023

**का.आ. 1887.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (199/2001) प्रकाशित करती है।

[सं. एल-12012/35/2001- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 12th December, 2023

**S.O. 1887.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.199/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/35/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad**

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 17<sup>th</sup> day of November, 2023

**INDUSTRIAL DISPUTE No. 199/2001**

Between:

Sri K. Das,

S/o Balaiah,

H.No.1-7-59/2, Monnappa Gutta Street,

Old Stand,

Mahaboobnagar.

... Petitioner

And

The Assistant General Manager,

(Personnel &amp; HRD Deptt.),

State Bank of India,

Local Head Office, Bank Street,

Koti, Hyderabad-500095.

.....Respondent

**Appearances:**

For the Petitioner : Sri B. Suman Kumar, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/35/2001-IR(B.I) dated 6.9.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Shri K. Das, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified? If not, what relief the applicant is entitled?”

After receipt of the reference, it was numbered as ID No.199 /2001 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon'ble High Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating

*body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR, J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal/The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited."*

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:**

**3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri K. Das was working as a Messenger in the State Bank of India from 1984 to 1997. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels. The Petitioner belongs to Scheduled class. It is submitted that the workman joined in the services of the Management Institution as Messenger and rendered unblemished service spreading over a period of about 8 years, and by dint of hard work till his services were terminated by oral orders w.e.f. 1.4.1997. It is submitted that the Management of Bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait-listing them, by offering permanent appointment or wait-listing till such opportunity arises. It is submitted that on 17.11.1987 a Settlement was reached between All India State Bank of India Staff Federation and the Management of Bank Settlement-1. Under this Settlement, three categories of employees were listed - (a) Those who have completed 240 days in 12 months or less after 1.7.1975; (b) Those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975; and (c) Those who have completed minimum of 30 days aggregate in a continuous, block of 12 calendar months after 1.7.1975. Persons who satisfy any of the above three categories were to be interviewed by a Selection Committee. The said Selection Committee determine suitability of the said candidate for permanent appointment. Therefore, the bank first had opportunity to notice and observe the work of the workmen, then prescribed certain qualification and from among the candidates satisfying the qualifications. The suitable candidates were enlisted by a Selection Committee Clause (7) of the said agreement provided that the selected candidates would be waitlisted in order of their respective categorization and the select panel be valid upto December 1991 Clause (10) of the Settlement specifically provided that henceforth, "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the Bank". Clause (1) of the agreement excluded categorized persons who are ineligible. The workman further submitted that consequent upon the said agreement and the Draft, a Notification was issued in the Newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May 1989 was held. A select panel was prepared. As per clause (7) of the Agreement (Settlement-I) the select panel was to be valid up till December, 1991. It was however, given currency and renewed upto 1997. However, this did not put to an end the legitimate claims of various persons like the workman. It is submitted that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. By and under the said Circular, the Chief Executives of all Public Sector Banks including the management were specifically instructed that until the problem of existing temporary employees is fully resolved, no Bank be permitted to make any temporary appointments. The workman further submits that some of the persons similarly situated like the workman aggrieved by the inaction on the part of the Management Bank in not regularizing their services from out of the select panel and not clearly focusing the vacancy position, filed W.P.No. 4194/97 on the file of the Hon'ble High Court of Andhra Pradesh. It is specifically averred in the said writ petition that the management of the Bank had failed to implement the Settlement and that it violates the various Fundamental rights guaranteed under the Constitution of India. The Hon'ble High Court by an order dated 5.3.1997 directed the Bank to implement the Settlement as amended from time to time. It also directed the Bank to carry out the terms of the Settlement before the expiry of March, 1997. The High Court also recorded a finding that the Bank cannot escape its liability of enforcement of the settlement. In view of the directions granted by the High Court in W.P. No. 4194/97 all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.1987 under which the panel was valid upto December, 1991 and on the basis of a Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the directions given by the High Court on 5.3.1997 in WP No 4194/97 and contrary to the settlements entered into between the parties. The Bank issued proceedings dated 25.3.1997, 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the Bank from 1.4.1997. The said order was followed

by the Management. Aggrieved by the said action the workman and similarly situated candidates have filed a writ petition before the Hon'ble High Court by way of writ petition No 9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (respondents No.3, 4 and 5) on 25.3.1997, 27.3.1997 and 31.3.1997 as illegal and also non-continuance of the petitioners service by absorbing them in the services of the Bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the Bank to absorb them in service. The workman further submits that in the counter affidavit filed in the writ petition No. 9206/97, the Bank submitted that it has about 805 Branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its Banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent needs or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the Bank either on the ground of urgent need or of temporary employees is a facade to perpetuate unfair labour practice. It is designed to, on the one hand, keep the employees in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the Bank. A reading of the counter affidavit would show that the Bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice. It is further submitted that the Bank refers in its counter affidavit to three Settlements dated 17.11.1987, 16.7.1988 and 27. 10.1988. The Bank in the guise of extending the benefits of the circular of Government dated 16.8.1990 stated in its counter affidavit as follows:

*“Government of India. vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.*

*The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the management so desired, they could enter into a conciliation settlement with the representative union. In para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1.1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.*

*As such, it could be seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6 (c) that the Banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the Bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The respondents have gone further wherein even persons working after 1975 were also considered.*

*As could be seen from the above, there was a genuine effort on the part of the respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.*

*It is further submitted that at para (k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement would mean that the Government of India guide lines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives”.*

It is submitted that clause (10) of the Settlement it is specifically mentioned that the workmen to be absorbed or appointed in the Bank prohibiting any temporary appointments subsequent to the date of settlement. Even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the workman and that should be continued till they are absorbed. It is submitted that the respondent Management has indulged in unfair labour practices. The said practice is evident from the actions of the Management Bank. In case of similarly situated workmen like Ch. Survanarayana. B. Venkateswarlu and P. Hussain Saheb who are empanelled by an order dated 3.9.1994 with a direction that their services to be on a very restricted basis against temporary vacancies for not more than 200 days in any continuous block of 12 months so as not to give them statutory right. The caption for such selections has been brought to attention that it was for absorption of temporary employees. That is how the panels for absorption were prepared according to each category ‘A’, ‘B’ and ‘C’. In view of the

regularization of the workmen who served the Bank ranging between 30 days and above has a right for absorption. The same is evident from the proceedings issued by the Management wherein they have specifically mentioned that their cases will be considered for absorption as and when the vacancies arose, till such time they shall be continued on temporary basis. Contrary to the said proceedings, now the Management indulged in unfair labour practices and terminated the service of similarly situated candidates like the workman with effect from 1.4.1997. Hence, the said practice of the Management is highly arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India. It is submitted that the workman and other similarly situated workmen who are working as on 31.3.1997 were orally asked not to come to duty from 1.4.1997. In para 3 of the proceedings dated 27.3.1997 it is stated that the panels of temporary employees on daily wages/casual labour maintained by Zonal Offices stand lapsed by 31.3.1997 and reads as follows:

*"3. The panels of temporary employees and daily wagers casual labour maintained by Zonal Offices stand lapsed by 31.3. 1997. Please confirm by return of post that the above instructions are meticulously complied with at your branch w.e.f 1.4.1997. Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that now onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed. This is very important and should be meticulously followed/implemented invariably without fail":*

It is submitted that there is no indication in any of the settlements as to who is the competent authority to decide about the validity or the life of the panels or to put an end to it and the so-called DGM is not stated to be the competent authority. It is submitted that the first settlement fixed the validity of the panels till 31.12.1991 never used the word that it is going to be lapsed on 1.1.1992. Similarly when the validity was extended in the subsequent settlements to be operated at least till 31.3.1997. Sometimes even without the extension of the panels would lapse after 31.3.1997, it is strange as to how the so-called competent authority or the authorities of the bank thought or decided to lapse them from 1.4.1997. It is submitted that the balance of unabsorbed candidates like the workman and the similarly situated candidates cannot more than 10% of the total empanelled candidates. Therefore, unless the Bank is able to demonstrate that the balance of unabsorbed candidates as on 31.3.1997 was only 10% of the total empanelled candidates, the theory of the lists becoming lapsed leaving no scope for absorption becomes an ingenious theory. It can be shown out of 6,932 empanelled candidates 3,178 were not absorbed and it should have been more than 10%. It is submitted that though an empanelled list was pending for absorption of such candidates on the date of first settlement, new lists of empanelled candidates in three categories were prepared by virtue of the subsequent settlements which were sought to be implemented with all seriousness. Although such panels could not be fully exhausted by the date of the last settlement dated 26.4.1991, the existing panels were enlarged by allowing others also to join such panels with supplementary panels to be used after the earlier panels of temporary employees have been exhausted. This will only mean that the bank was capable of absorbing all the candidates in the panels which were in existence as on 26.4.1991. It is submitted that the Banks were directed that recruitment of all temporary employees in the Clerical or Subordinate cadres shall be stopped forthwith. In pursuance of such directions an advertisement was issued in the local Newspapers as per the settlements and based upon that panels were prepared after an interview. Two salient features of the instructions of the Government are that there must be one time and whole time settlement to consider the absorption of such temporary employees in the existing panels and till then no Bank will be permitted to make any temporary appointment. It is submitted that the action of termination such employees like the workman by virtue of impugned proceedings without implementing the settlements would be illegal and it would be denial of unfair labour practice within the meaning of Section 2(a) of Industrial Disputes Act which cannot be allowed to be perpetuated. It is submitted that discontinuance of workmen after 31.3.1997 to serve in the Bank in any capacity amounts to retrenchment. It could not have done without notice and it violates Section 25(ff) of I.D. Act and the said action is violative of principles of natural justice guaranteed under Chapter-III of the Constitution of India. Therefore, the action of D.G.M. the so-called competent authority who has passed the impugned proceedings amounts to retrenchment of the workman without one month's notice or payment in lieu of such notice, wages for the period of notice. Thus the impugned proceedings are issued in colourable exercise of power, without jurisdiction, arbitrary, illegal and are therefore liable to be quashed. The workman submits that though the respondent management informed in its letter dated 10.10.1990, the Central Government stating that they are implementing the instructions issued in proceedings dated 16.8.1990 In fact the management failed to implement the same for the reasons best known to them. It is further submitted that the M.O.U. dated 27.2.1997 said to have been entered into between the parties does not binds the workmen as it has no legal entity. However, the said M.O.U. has not published anywhere to brought to the notice of the workmen whose rights are being affected. In fact, when settlements were arrived at in the year 1987, the Central Government directed the respondent management to give vide publicity by its letter dated 30.11.1987 and 29.12.1987. Accordingly those settlements were brought to the notice of workmen by way of advertisement. The said process was not followed while entering into M.O.U. dated 27.2.1997, through which the affected parties like the workman was kept in dark about the lapse of the selected panels. It is further submitted that the management has failed to implement the selected, panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993, a copy of the same is filed in the material papers and the same may be read as part of the Claim Petition. It is submitted that the management adhere to the procedure



envisaged by the Central Government in its instructions dated 16.8.1990 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment Exchange instead of giving chance to the empanelled candidates like the workman herein. It is pertinent to mention here that the respondent management sent call letters to the similarly situated candidates like the workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, copies of call letters issued are filed herein along with Claim Petition. The workman reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the respondent management to engage the empanelled candidates like the workman even in temporary vacancies till they are absorbed permanently in regular vacancies. The workman submitted that ever since the date of his removal from service, he remained unemployed, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

i) Category 'A' :

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

ii) Category 'B':

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

iii) Category 'c':

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the

representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the



mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 16 documents which were marked as Ex.W1 to W16. Ex.W1 is the news paper advertisement, Ex.W2 is the appointment letter, W3 to W11 are the service certificates. Ex.W12 is the panel list. Ex.W13 is the call letter for interview. Ex.W14 is the transfer certificate. Ex.W15 is the caste certificate and Ex.W16 is the bonus notification. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri K. Das, Temporary/Non-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization absorption in the service of Bank?

### III. To what relief, the workman is entitled for?

#### **Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank on 9.5.1984 on temporary basis. In the year 1989, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arisen. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. In cross examination, WW1 states that he was not given any posting order at the time of joining the service nor at any other time. On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination that, "I was not sponsored by any employment exchange. My appointment was not in response to any notification issued by the bank. I did not undergo any selection process." He further states that, "the temporary messengers whose names were included in the panel were given appointment on regular basis. I do not know that the vacancies were filled with the senior persons in the mentioned panel and I was not given appointment on regular basis for the reason that I was having less no. of days of service." Further the Petitioner states, "I was not given any letter stating that I was terminated from service. I did not give any letter alleging that my services were terminated by the management. It is not true to say that I was terminated from service and that I am not getting the work as the vacancies were filled up by the bank with the temporary employees from the panel." Further Petitioner states, "I did not work for 240 days in any year in my entire service in the bank". On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of **National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999**, three judges bench of Hon'ble Apex Court have held:-

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Qrs. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994**, the Hon'ble High Court observed:-

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of **State of U.P. v. Harish Chandra AIR 1996 SC 2173**, the Hon'ble Apex Court have held:-

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of*

*legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

Similarly in the case of **Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091**, it was held :

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri K. Das, Temporary/Non-Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

## **22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

## **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri K. Das, Temporary/Non-Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

## **Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

WW1: Sri K. Das

MW1: Sri Aluru Rama Rao

## **Documents marked for the Petitioner**

Ex.W1: Photocopy of newspaper notification

Ex.W2: Photocopy of appointment letter dt.3.9.91

Ex.W3: Photocopy of gist of service record

Ex.W4: Photocopy of service certificate dt.8.8.1988

Ex.W5: Photocopy of service certificate dt.6.5.92

Ex.W6: Photocopy of service certificate dt. 3.7.93

Ex.W7: Photocopy of service certificate dt.26.6.95

Ex.W8: Photocopy of service certificate dt.13.8.96

Ex.W9:	Photocopy of service certificate dt.31.7.96
Ex.W10:	Photocopy of service certificate dt.1.4.97
Ex.W11:	Photocopy of service certificate dt.1.4.97
Ex.W12:	Photocopy of selected panel list
Ex.W13:	Photocopy of interview call letter
Ex.W14:	Photocopy of transfer certificate
Ex.W15:	Photocopy of caste certificate
Ex.W16:	Photocopy of Bonus notification

**Documents marked for the Respondent**

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non0messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 13 दिसम्बर, 2023

**का.आ. 1888.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (214/2002) प्रकाशित करती है।

[सं. एल-12012/395/2001-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 13th December, 2023

**S.O. 1888.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.214/2002) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/395/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad**Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 17<sup>th</sup> day of November, 2023**INDUSTRIAL DISPUTE No. 214/2002**

Between:

Sri K. Rajendra Prasad,

S/o K. Ganga Reddy,

Meduru P.O., Pemidimukkala(M),

Krishna Distt. – 521185.

... Petitioner

And

The Assistant General Manager,

State Bank of India,

Zonal Office,

Vijayawada – 520 003.

.....Respondent

**Appearances:**

For the Petitioner : Sri Suman, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/395/2001-IR(B.I) dated 13.2.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing services of Shri K. Rajendra Prasad, Ex.Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No. 214/2002 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon’ble High Court vide WP No. 6470/2006 & batch wherein Hon’ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon’ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon’ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most



*important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR, J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal/The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited."*

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:**

**3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri K. Rajendra Prasad was working as a Non-Messenger in the State Bank of India from 1986 to 1994. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels. The Petitioner belongs to Scheduled caste. It is submitted that the workman joined in the services of the Management Institution as Non-Messenger and rendered unblemished service spreading over a period of about 8 years, and by dint of hard work till his services were terminated by oral orders w.e.f. 1.4.1997. It is submitted that the Management of Bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait-listing them, by offering permanent appointment or wait-listing till such opportunity arises. It is submitted that on 17.11.1987 a Settlement was reached between All India State Bank of India Staff Federation and the Management of Bank Settlement-1. Under this Settlement, three categories of employees were listed - (a) Those who have completed 240 days in 12 months or less after 1.7.1975; (b) Those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975; and (c) Those who have completed minimum of 30 days aggregate in a continuous, block of 12 calendar months after 1.7.1975. Persons who satisfy any of the above three categories were to be interviewed by a Selection Committee. The said Selection Committee determine suitability of the said candidate for permanent appointment. Therefore, the bank first had opportunity to notice and observe the work of the workmen, then prescribed certain qualification and from among the candidates satisfying the qualifications. The suitable candidates were enlisted by a Selection Committee Clause (7) of the said agreement provided that the selected candidates would be waitlisted in order of their respective categorization and the select panel be valid upto December 1991 Clause (10) of the Settlement specifically provided that henceforth, "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the Bank". Clause (1) of the agreement excluded categorized persons who are ineligible. The workman further submitted that consequent upon the said agreement and the Draft, a Notification was issued in the Newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May 1989 was held. A select panel was prepared. As per clause (7) of the Agreement (Settlement-I) the select panel was to be valid up till December, 1991. It was however, given currency and renewed upto 1997. However, this did not put to an end the legitimate claims of various persons like the workman. It is submitted that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. By and under the said Circular, the Chief Executives of all Public Sector Banks including the management were specifically instructed that until the problem of existing temporary employees is fully resolved, no Bank be permitted to make any temporary appointments. The workman further submits that some of the persons similarly situated like the workman aggrieved by the inaction on the part of the Management Bank in not regularizing their services from out of the select panel and not clearly focusing the vacancy position, filed W.P.No. 4194/97 on the file of the Hon'ble High Court of Andhra Pradesh. It is specifically averred in the said writ petition that the management of the Bank had failed to implement the Settlement and that it violates the various Fundamental rights guaranteed under the Constitution of India. The Hon'ble High Court by an order dated 5.3.1997 directed the Bank to implement the Settlement as amended from time to time. It also directed the Bank to carry out the terms of the Settlement before the expiry of March, 1997. The High Court also recorded a finding that the Bank cannot escape its liability of enforcement of the settlement. In view of the directions granted by the High Court in W.P. No. 4194/97 all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.1987 under which the panel was valid upto December, 1991 and on the basis of a Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the directions given by the High Court on 5.3.1997 in WP No 4194/97 and contrary to the settlements



entered into between the parties. The Bank issued proceedings dated 25.3.1997, 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the Bank from 1.4.1997. The said order was followed by the Management. Aggrieved by the said action the workman and similarly situated candidates have filed a writ petition before the Hon'ble High Court by way of writ petition No 9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (respondents No.3, 4 and 5) on 25.3.1997, 27.3.1997 and 31.3.1997 as illegal and also non-continuance of the petitioners service by absorbing them in the services of the Bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the Bank to absorb them in service. The workman further submits that in the counter affidavit filed in the writ petition No. 9206/97, the Bank submitted that it has about 805 Branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its Banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent needs or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the Bank either on the ground of urgent need or of temporary employees is a facade to perpetuate unfair labour practice. It is designed to, on the one hand, keep the employees in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the Bank. A reading of the counter affidavit would show that the Bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice. It is further submitted that the Bank refers in its counter affidavit to three Settlements dated 17.11.1987, 16.7.1988 and 27. 10.1988. The Bank in the guise of extending the benefits of the circular of Government dated 16.8.1990 stated in its counter affidavit as follows:

*“Government of India. vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.*

*The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the management so desired, they could enter into a conciliation settlement with the representative union. In para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1.1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.*

*As such, it could be seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6 (c) that the Banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the Bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The respondents have gone further wherein even persons working after 1975 were also considered.*

*As could be seen from the above, there was a genuine effort on the part of the respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.*

*It is further submitted that at para (k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement would mean that the Government of India guide lines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives”.*

It is submitted that clause (10) of the Settlement it is specifically mentioned that the workmen to be absorbed or appointed in the Bank prohibiting any temporary appointments subsequent to the date of settlement. Even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the workman and that should be continued till they are absorbed. It is submitted that the respondent Management has indulged in unfair labour practices. The said practice is evident from the actions of the Management Bank. In case of similarly situated workmen like Ch. Survanarayana. B. Venkateswarlu and P. Hussain Saheb who are empanelled by an order dated 3.9.1994 with a direction that their services to be on a very restricted basis against temporary vacancies for not more than 200 days in any continuous block of 12 months so as not to give them statutory right. The caption for such selections has been brought to attention that it was for absorption of temporary employees. That is how the panels for absorption were prepared according to each category ‘A’, ‘B’ and ‘C’. In view of the

regularization of the workmen who served the Bank ranging between 30 days and above has a right for absorption. The same is evident from the proceedings issued by the Management wherein they have specifically mentioned that their cases will be considered for absorption as and when the vacancies arose, till such time they shall be continued on temporary basis. Contrary to the said proceedings, now the Management indulged in unfair labour practices and terminated the service of similarly situated candidates like the workman with effect from 1.4.1997. Hence, the said practice of the Management is highly arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India. It is submitted that the workman and other similarly situated workmen who are working as on 31.3.1997 were orally asked not to come to duty from 1.4.1997. In para 3 of the proceedings dated 27.3.1997 it is stated that the panels of temporary employees on daily wages/casual labour maintained by Zonal Offices stand lapsed by 31.3.1997 and reads as follows:

*"3. The panels of temporary employees and daily wagers casual labour maintained by Zonal Offices stand lapsed by 31.3. 1997. Please confirm by return of post that the above instructions are meticulously complied with at your branch w.e.f 1.4.1997. Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that now onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed. This is very important and should be meticulously followed/implemented invariably without fail":*

It is submitted that there is no indication in any of the settlements as to who is the competent authority to decide about the validity or the life of the panels or to put an end to it and the so-called DGM is not stated to be the competent authority. It is submitted that the first settlement fixed the validity of the panels till 31.12.1991 never used the word that it is going to be lapsed on 1.1.1992. Similarly when the validity was extended in the subsequent settlements to be operated at least till 31.3.1997. Sometimes even without the extension of the panels would lapse after 31.3.1997, it is strange as to how the so-called competent authority or the authorities of the bank thought or decided to lapse them from 1.4.1997. It is submitted that the balance of unabsorbed candidates like the workman and the similarly situated candidates cannot more than 10% of the total empanelled candidates. Therefore, unless the Bank is able to demonstrate that the balance of unabsorbed candidates as on 31.3.1997 was only 10% of the total empanelled candidates, the theory of the lists becoming lapsed leaving no scope for absorption becomes an ingenious theory. It can be shown out of 6,932 empanelled candidates 3,178 were not absorbed and it should have been more than 10%. It is submitted that though an empanelled list was pending for absorption of such candidates on the date of first settlement, new lists of empanelled candidates in three categories were prepared by virtue of the subsequent settlements which were sought to be implemented with all seriousness. Although such panels could not be fully exhausted by the date of the last settlement dated 26.4.1991, the existing panels were enlarged by allowing others also to join such panels with supplementary panels to be used after the earlier panels of temporary employees have been exhausted. This will only mean that the bank was capable of absorbing all the candidates in the panels which were in existence as on 26.4.1991. It is submitted that the Banks were directed that recruitment of all temporary employees in the Clerical or Subordinate cadres shall be stopped forthwith. In pursuance of such directions an advertisement was issued in the local Newspapers as per the settlements and based upon that panels were prepared after an interview. Two salient features of the instructions of the Government are that there must be one time and whole time settlement to consider the absorption of such temporary employees in the existing panels and till then no Bank will be permitted to make any temporary appointment. It is submitted that the action of termination such employees like the workman by virtue of impugned proceedings without implementing the settlements would be illegal and it would be denial of unfair labour practice within the meaning of Section 2(a) of Industrial Disputes Act which cannot be allowed to be perpetuated. It is submitted that discontinuance of workmen after 31.3.1997 to serve in the Bank in any capacity amounts to retrenchment. It could not have done without notice and it violates Section 25(ff) of I.D. Act and the said action is violative of principles of natural justice guaranteed under Chapter-III of the Constitution of India. Therefore, the action of D.G.M. the so-called competent authority who has passed the impugned proceedings amounts to retrenchment of the workman without one month's notice or payment in lieu of such notice, wages for the period of notice. Thus the impugned proceedings are issued in colourable exercise of power, without jurisdiction, arbitrary, illegal and are therefore liable to be quashed. The workman submits that though the respondent management informed in its letter dated 10.10.1990, the Central Government stating that they are implementing the instructions issued in proceedings dated 16.8.1990. In fact the management failed to implement the same for the reasons best known to them. It is further submitted that the M.O.U. dated 27.2.1997 said to have been entered into between the parties does not bind the workmen as it has no legal entity. However, the said M.O.U. has not published anywhere to brought to the notice of the workmen whose rights are being affected. In fact, when settlements were arrived at in the year 1987, the Central Government directed the respondent management to give wide publicity by its letter dated 30.11.1987 and 29.12.1987. Accordingly those settlements were brought to the notice of workmen by way of advertisement. The said process was not followed while entering into M.O.U. dated 27.2.1997, through which the affected parties like the workman was kept in dark about the lapse of the selected panels. It is further submitted that the management has failed to implement the selected, panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993, a copy of the same is filed in the material papers and the same may be read as part of the Claim Petition. It is submitted that the management adhere to the procedure

envisaged by the Central Government in its instructions dated 16.8.1990 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment Exchange instead of giving chance to the empanelled candidates like the workman herein. It is pertinent to mention here that the respondent management sent call letters to the similarly situated candidates like the workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, copies of call letters issued are filed herein along with Claim Petition. The workman reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the respondent management to engage the empanelled candidates like the workman even in temporary vacancies till they are absorbed permanently in regular vacancies. The workman submitted that ever since the date of his removal from service, he remained unemployed, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

i) Category 'A' :

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

ii) Category 'B':

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

iii) Category 'c':

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the

representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the

mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 3 documents which were marked as Ex.W1 to W3. Ex.W1 is service certificate, Ex.W2 is Newspaper notification, Ex.W3 is the panel list. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri K. Rajendra Prasad, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization absorption in the service of Bank?
- III. To what relief, the workman is entitled for?



**Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank in the year 1986 on temporary basis. In the year 1989, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arisen. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. In cross examination, WW1 states that he was not given any posting order at the time of joining the service nor at any other time. On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination that, "I was not sponsored by any employment exchange, did not undergo the regular process of selection before my engagement as temporary non-messenger in the branch. I did not work continuously. I used to work depending upon availability of work in the branch." He further states that, "The panel was prepared basing upon the number of days of service, put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel. Further Petitioner states, "I did not work for 240 days in any year in my entire service in the bank". On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act, he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine*

*first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of **National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999, three judges bench of Hon'ble Apex Court have held:-**

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Ors. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994, the Hon'ble High Court observed:-**

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of **State of U.P. v. Harish Chandra AIR 1996 SC 2173, the Hon'ble Apex Court have held:-**

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing*



*the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

Similarly in the case of **Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091**, it was held :

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri K. Rajendra Prasad, Ex-Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

## **22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri K. Rajendra Prasad, Ex-Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

### **Appendix of evidence**

Witnesses examined for the  
Petitioner

WW1: Sri K. Rajendra Prasad

Witnesses examined for the  
Respondent

MW1: Sri K. Bala Kotaiah

### **Documents marked for the Petitioner**

Ex.W1: Photocopy of service certificate

Ex.W2: Photocopy of newspaper notification

Ex.W3: Photocopy of panel list

### **Documents marked for the Respondent**

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87

Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88

Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 13 दिसम्बर, 2023

**का.आ. 1889.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (197/2001) प्रकाशित करती है।

[सं. एल-12012/31/2001- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 13th December, 2023

**S.O. 1889.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.197/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/31/2001- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 17<sup>th</sup> day of November, 2023

**INDUSTRIAL DISPUTE No. 197/2001**

Between:

Sri K. Raghu Nath,

38/153/B, S.N. Colony ,

Rayachoty ( P & Mandal)

Distt. Cuddapah.

... Petitioner

And

The Dy. General Manager,

State Bank of India,

Zonal Office, Renigunta Road,

Tirupathi-517501.

.....Respondent

**Appearances:**

For the Petitioner : Sri B. Suman Kumar, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/31/2001-IR(B.I) dated 6.9.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

**SCHEDULE**

“Whether the action of the management of State Bank of India, Rayachoty Branch in terminating the services of Shri K. Raghu Nath, Messenger, is legal and justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No.197 /2001 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon’ble High Court vide WP No. 6470/2006 & batch wherein Hon’ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon’ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon’ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR,J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon’ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:****3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri K. Raghu Nath has joined as a Messenger in the State Bank of India from 1987 upto May, 1988. It is submitted that thereafter he was called for an interview for absorption into the permanent employment. He appeared in the interview and he was selected. His name was included in the panel for the post of messenger. After

selection he was provided work at the same branch as Messenger and some times as a Watchman also during July, 1991 to August, 1996. The Respondent created artificial breaks to his service to deprive the Petitioner under labour laws. His services terminated on 31.3.1997 with verbal orders. Petitioner is a married person having wife, two daughters as his dependents. Petitioner approached Hon'ble High Court of A.P. where he was asked to approach the authority under ID Act, 1947. He approached the Office of the ALC(C), Vijayawada, who conducted conciliation proceedings, which ended in failure and failure report was forward to the Ministry of Labour and Employment, New Delhi, which was referred to this tribunal, hence this ID. Meanwhile Petitioner was called for an interview for absorption and he was selected during the year 1989 and his name was included in the panel. He is a physically handicapped person having only 40% of low vision to the left eye. There were no complaints against the Petitioner. The work performed by the Petitioner is of a permanent and continuous in nature. Though sufficient and plenty of work was available in the Respondent bank the officers have created artificial breaks in the services of the Petitioner. The Respondent has not published seniority list of the category of the Petitioner and retained juniors to the Petitioner without giving priority to the Petitioner. There are no valid reasons for terminating the services of the Petitioner. The workman submitted that ever since the date of his removal from service, he remained un-employee, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

*i) Category 'A':*

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

*ii) Category 'B':*

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

*iii) Category 'c':*

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than

240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is

based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 5 documents which were marked as Ex.W1 to W5. Ex.W1 is memo of marks of X class, Ex.W2 is the Transfer Certificate, Ex.W3 is certificate issued by branch dated 11.8.88, W4 is the panel list, Ex.W5 is the service certificate issued by the branch. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

**16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-**

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri K. Raghu Nath, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?



II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization absorption in the service of Bank?

III. To what relief, the workman is entitled for?

**Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank in the year 1987 on temporary basis. In the year 1989, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates in the year 1989 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arisen. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. In cross examination, WW1 states that, "I was appointed as temporary messenger on temporary basis in the year 1987 for 88 days. I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary messenger." Further workman states that, "The panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the employees whose names were included in the panel were given regular employment in the bank in order of their seniority in the panel." The witness adds that he is not aware of the settlements. Further, he states, "I did not give any letter stating that I was terminated from service and that I want reinstatement into service. I am not having any document to show that any of my juniors are continuing in service. I am not having any document to show that any person who had worked for less no. of days than me was given regular appointment in the bank. I was not given any letter stating that I was terminated from service." The witness further states, "I did not work for 240 days in any year in my entire service in the bank." On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list 1989 however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.



In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine*

*first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of **National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999**, three judges bench of Hon'ble Apex Court have held:-

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Ors. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994**, the Hon'ble High Court observed:-

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of **State of U.P. v. Harish Chandra AIR 1996 SC 2173**, the Hon'ble Apex Court have held:-

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution*

*a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which is contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

Similarly in the case of **Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091**, it was held :

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri K. Raghu Nath, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

## **22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

## **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri K. Raghu Nath, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

## **Appendix of evidence**

Witnesses examined for the  
Petitioner

WW1: Sri K. Raghu Nath

Witnesses examined for the  
Respondent

MW1: Sri K. Bala Kotaiah

## **Documents marked for the Petitioner**

Ex.W1: Photocopy of memo of marks of 10<sup>th</sup> class

Ex.W2: Photocopy of Transfer certificate

Ex.W3: Photocopy of certificate issued by Rayachoti branch of the Respondent

Ex.W4: Photocopy of panel list

Ex.W5: Photocopy of certificate issued by Rayachoti branch of the Respondent

**Documents marked for the Respondent**

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non0messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 13 दिसम्बर, 2023

**का.आ. 1890.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (288/2001) प्रकाशित करती है।

[सं. एल-12012/133/2001-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 13th December, 2023

**S.O. 1890.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.288/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/133/2001- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad**

Present: **Sri IRFAN QAMAR, Presiding Officer**

Dated the 17<sup>th</sup> day of November, 2023

**INDUSTRIAL DISPUTE No. 228/2001**

Between:

Sri R. Prabhakar,

S/o R. Chengaiah,

Venkatampeta(V)

Chandragiri (P&M)-517101.

Chittoor Distt.

... Petitioner

And

The Assistant General Manager,

State Bank of India,

Zonal Office, Region-III,

Tirupathi.

.....Respondent

### **Appearances:**

For the Petitioner : Sri B. Suman Kumar, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

### **AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/133/2001-IR(B.I) dated 18.9.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

### **SCHEDULE**

“Whether the action of the management of State Bank of India, Tirupathi Zone in dismissing services of Shri R. Prabhakar, Ex.Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No.228/2001 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon’ble High Court vide WP No. 6470/2006 & batch wherein Hon’ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon’ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

**Hon’ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that,** “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR,J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal/The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

**The factual matrix of the present industrial dispute is as follows:**

**3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri R. Prabhakar was working as a Messenger in the State Bank of India from 1987 to 1997. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels. The Petitioner belongs to SC community. It is submitted that the workman joined in the services of the Management Institution as Messenger and rendered unblemished service spreading over a period of about 10 years, and by dint of hard work till his services were terminated by oral orders w.e.f. 1.4.1997. Petitioner is a married person having wife, one daughter, one younger sister and old aged parents as his dependents. Petitioner approached Hon'ble High Court of A.P. where he was asked to approach the authority under ID Act, 1947. He approached the Office of the ALC(C), Vijayawada, who conducted conciliation proceedings, which ended in failure and failure report was forward to the Ministry of Labour and Employment, New Delhi, which was referred to this tribunal, hence this ID. Meanwhile Petitioner was called for an interview for absorption and he was selected during the year 1989 and his name was included in the panel. He is a physically handicapped person having only 40% of low vision to the left eye. There were no complaints against the Petitioner. The work performed by the Petitioner is of a permanent and continuous in nature. Though sufficient and plenty of work was available in the Respondent bank the officers have created artificial breaks in the services of the Petitioner. The Respondent has not published seniority list of the category of the Petitioner and retained juniors to the Petitioner without giving priority to the Petitioner. There are no valid reasons for terminating the services of the Petitioner. The workman submitted that ever since the date of his removal from service, he remained un-employee, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

**4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:**

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

*As per settlement the temporary employees were categorized into three categories, detailed as under:*

*i) Category 'A' :*

*Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.*

*ii) Category 'B':*

*Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

*iii) Category 'c':*

*Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.*

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes,

cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5<sup>th</sup> settlement was arrived at on 30<sup>th</sup> July 1996 requiring the panel to be kept alive up to 31<sup>st</sup> March, 1997 and this was in respect of the vacancies which became available up to 31<sup>st</sup> December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The

bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."*

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 16 documents which were marked as Ex.W1 to W16. Ex.W1 is transfer certificate, Ex.W2 is study certificate. Ex.W3 is Memo of marks. W4 is caste certificate, Ex.W5 is call letter issued to Petitioner. Ex.W6 is service certificate, Ex.W7 is also service certificate, Ex.W8 is panel list, Ex.W9 is application of Petitioner. Ex.W10 is certificate showing that Petitioner is a blind handicapped person. Ex.W11 is the letter from Respondent. Ex.W12 is service



certificate. Ex.W13 and W14 are notices for conciliation proceedings. Ex.W15 is minutes of that proceedings. Ex.W16 is failure report to the Government of India. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri R. Prabhakar, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization absorption in the service of Bank?
- III. To what relief, the workman is entitled for?

#### **Findings:**

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank on 14.7.1987 on temporary basis. In the year 1988, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates in the year 1989 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arise. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. Further he stated Ex. W12 is the service certificate according to which the workman has worked for total number of 1138 days. In cross examination, WW1 states that he was not given any posting order at the time of joining the service nor at any other time. On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination, "I joined the bank on 14.7.1987 for the first time in Chandragiri ADB Branch of Chittor district and worked for 112 days. I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary attendar. I applied in response to an advertisement issued by the bank as per the settlements entered between the bank and the union. I was called for interview in the year 1989 and my name was included in the panel. The panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the employees whose names were included in the panel were given regular employment in the bank in order of their seniority in the panel. I was not given any letter stating that I was terminated from service. I did not give any letter stating that I was terminated from service and that I want reinstatement into service. I did not work for 240 days in any year in my entire service in the bank." Further, the Petitioner states that, "I am not having any document to show that any person who had worked for less

no. of days than me was given regular appointment in the bank. I am not having any document to show that any of my juniors are continuing in service. ” On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

*"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act, he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

*"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine*

*first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of **National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999**, three judges bench of Hon'ble Apex Court have held:-

*"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Ors. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994**, the Hon'ble High Court observed:-

*"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the*

*petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."*

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of **State of U.P. v. Harish Chandra AIR 1996 SC 2173**, the Hon'ble Apex Court have held:-

*"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."*

Similarly in the case of **Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091**, it was held :

*"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri R. Prabhakar, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

## **22. Point No. III:-**

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

### **ORDER**

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri R. Prabhakar, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17<sup>th</sup> day of November, 2023.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

WW1: Sri R. Prabhakar

MW1: Sri K. Bala Kotaiah

**Documents marked for the Petitioner**

Ex.W1:	Photocopy of Transfer certificate
Ex.W2:	Photocopy of School certificate
Ex.W3:	Photocopy of memo of marks
Ex.W4:	Photocopy of caste certificate
Ex.W5:	Photocopy of interview call letter
Ex.W6:	Photocopy of certificate dt.19.9.97
Ex.W7:	Photocopy of certificate dt.20.3.89
Ex.W8:	Photocopy of Ir. Dt. 16.4.92 from Respondent including the name of the Petitioner in panel
Ex.W9:	Photocopy of application dt. 16.4.92 from WW1 to Respondent
Ex.W10:	Photocopy of medical certificate of Petitioner
Ex.W11:	Photocopy of Ir. Dt.27.4.92 from Respondent.
Ex.W12:	Photocopy of certificate dt.19.9.97
Ex.W13:	Photocopy of notice dt.20.12.2000 from ALC(C)
Ex.W14:	Photocopy of notice dt. 5.2.2001 from ALC(C)
Ex.W15:	Photocopy of Minutes dt.13.2.2001
Ex.W16:	Photocopy of failure report dt.28.2.2001 from ALC(C)

**Documents marked for the Respondent**

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7:	Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8:	Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9:	Photocopy of statement of 1989 Non0messenger panel
Ex.M10:	Photocopy of statement of 1992 panel
Ex.M11:	Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12:	Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98